

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

QUANTEL SAUNDERS,

Plaintiff,

v.

Civil Action No. 2:18-cv-01514

CO II KUMMER, LT. BAISDEN,

CO I EWING, and DR. LYE,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending are (1) the motion to dismiss filed by defendants Kummer, Baisden, and Ewing; (2) the motion to dismiss filed by defendant Dr. Lye; (3) defendant Dr. Lye's motion to designate motion to dismiss as unopposed and to dismiss plaintiff's complaint for failure to prosecute; and (4) defendants Kummer, Baisden, and Ewing's motion to designate motion to dismiss as unopposed and to dismiss plaintiff's complaint for failure to prosecute.

This matter having been referred to United States Magistrate Judge Dwane L. Tinsley pursuant to 28 U.S.C. § 636(b)(1)(B), he filed his Proposed Findings and Recommendation ("PF&R") on December 18, 2019. Magistrate Judge Tinsley recommends that the court grant defendants Kummer, Baisden, and Ewing's motion

to dismiss with respect to defendant Ewing, but deny the same with respect to defendants Kummer and Baisden. The magistrate judge further recommends that the court grant defendant Dr. Lye's motion to dismiss and deny both motions to designate motions to dismiss as unopposed and to dismiss for failure to prosecute.

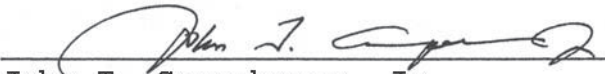
No objections having been filed to the PF&R, the parties have waived de novo review by this court. Accordingly, it is ORDERED as follows:

1. That the PF&R be, and it hereby is, adopted and incorporated in full herein.
2. That the motion to dismiss by defendants Kummer, Baisden, and Ewing be, and it hereby is, granted with respect to defendant Ewing, but denied with respect to defendants Kummer and Baisden.
3. That the motion to dismiss by defendant Dr. Lye be, and it hereby is, granted.
4. That Dr. Lye's motion to designate motion to dismiss as unopposed and to dismiss plaintiff's complaint for failure to prosecute be, and it hereby is, denied.

5. That defendants Kummer, Baisden, and Ewing's motion to designate motion to dismiss as unopposed and to dismiss plaintiff's complaint for failure to prosecute be, and it hereby is, denied.
6. That defendants Ewing and Dr. Lye be, and they hereby are, dismissed from this action.

The matter continues to be referred to Magistrate Judge Tinsley for further proceedings as to defendants Kummer and Baisden. The Clerk is directed to forward copies of this written opinion and order to the plaintiff, all counsel of record, and the United States Magistrate Judge Dwane L. Tinsley.

ENTER: January 15, 2020

  
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John T. Copenhaver, Jr.  
Senior United States District Judge